

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 2ND NOVEMBER 2006 / 11TH KARTHIKA 1928

OP.No. 35541 of 2002(F)

PETITIONER:

SHAMLA MAJEED, 'HIBA', PADA NORTH,
KARUNAGAPPALLY, KOLLAM.

BY ADV. SRI.S.SANTHOSH KUMAR

RESPONDENTS:

1. THE ADDITIONAL COMMERCIAL TAX OFFICER,
COMMERCIAL TAXES, KARUNAGAPPALLY
(ADDITIONAL SALES TAX OFFICER-III,
KARUNAGAPPALLY)
2. THE TAHSILDAR, TALUK OFFICE,
KARUNAGAPPALLY.
3. M/S. HOT POINT HOME APPLIANCES PVT.LTD.,
T.P.III/733, MANAPPILLY P.O., KARUNAGAPPALLY,
REP.BY ITS MANAGING DIRECTOR -
P.V.MOHAMMED NAZEER.

R1 AND BY GOVERNMENT PLEADER SRI. GEORGEKUTTY MATHEW

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 02/11/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER ON CMP 60041 OF 2002 IN OP NO. 35541 OF 2002

DISMISSED

2.11.2006

SD/-C.N.RAMACHANDRAN NAIR, JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF ROM NO. 32 DATED 29.3.99 ALONG WITH LETTER DATED 12.4.99

EXT.P2 TRUE COPY OF THE RR.DEMAND NOTICE NO. D2-851/2000 DATED 19.1.2000 ISSUED BY THE 2ND RESPONDENT.

EXT.P3 TRUE COPY OF THE REVISED ASSESSMENT ORDER DATED 18.6.2002 FOR THE YEAR 1995-96

EXT.P3(a) TRUE COPY OF THE REVISED ASSESSMENT ORDER DATED 18.6.2002 FOR THE YEAR 1996-97

EXT.P4 TRUE COPY OF LETTER DATED 24.9.2002 OF THE 3RD RESPONDENT TO THE FIRST RESPONDENT.

EXT.P5 TRUE COPY OF LETTER DATED 18.11.2002 OF THE PETITIONER TO THE FIRST RESPONDENT.

EXT.P6 TRUE COPY OF THE NOTICE NO. B2.851/2000 DATED 22.11.2002 OF THE 2ND RESPONDENT TO THE PETITIONER.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

O.P.NO. 35541 OF 2002

Dated this the 2nd day of November, 2006

JUDGMENT

Petitioner is challenging revenue recovery proceedings on the ground that liability relates to the period after retirement of the petitioner as Managing Director of the company. Even though O.P. is pending for the last over four years, respondents have not chosen to file any counter affidavit or statement in Court. In fact a connected case, O.P.No. 29190 of 2002, filed by the company was disposed of permitting recovery of the actual amount payable from the company. Further this Court vide interim order dated 13.9.2006 directed the respondents to proceed for recovery against the assets of the company. So far nothing is reported to this Court from the respondents' side. In the circumstances, I feel O.P. can be disposed of with direction to second respondent to consider and dispose of petitioner's objections and thereafter only to proceed against ex-Directors of the company, and that too if the same is permissible under the Act. If the company has

assets the recovery authorities should recover the arrears from the assets of the company. O.P. is disposed of permitting personal recovery against the petitioner only after disposal of the petitioner's objection and only after declaring the concerned Director liable. Petitioner will produce a copy of this judgment before the second respondent for compliance.

(C.N.RAMACHANDRAN NAIR)
Judge

